# Blue Ribbon Commission
# Update on
# Personal Care Services &
# Institution of Mental Disease

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# New PCS Eligibility

Eligible adult recipients:

- Have medical condition, disability, or cognitive impairment, *and*
- Require limited hands-on assistance with three activities of daily living (ADLs),
- or hands-on assistance with two ADLs including one at the extensive assistance
- or hands-on assistance with two ADLs including one at full dependence level

Qualifying ADLs are:

bathing, dressing, mobility, toileting, and eating

# PCS Eligibility Differences between In-Home and Facility PCS

- SL 2009-451 changed PCS In-Home
  - Required Independent Assessment
  - Increased the ADLs requirement from 2 to 3
  - Changed the amount and scope of PCS services that could be provided
  - Required physician attestation
  - Excluded the coverage of
    - non-medical transportation
    - Errands and shopping
    - Money management
    - Cueing, prompting, guiding or coaching
- The legislation did not make changes to PCS provided in facilities

# PCS in Facilities

- If a person qualified for Medicaid and Special Assistance (SA)
- Limitations with 1 or more personal care tasks
- Hands on assistance
- May also include supervising and prompting a person’s self-performance of tasks

# How is PCS Paid?

- In-Home PCS
  - 15 minute unit - $3.47
  - Maximum 80 hours per month except for children
  - Children may exceed 80 hours due to EPSDT

- Facilities
- Daily rate
- Basic (1-30 beds) $16.62
- Basic (31 and above) $18.21
- Enhanced
  - Eating $10.26
  - Toileting $3.67
  - Eating/Toileting $13.92
  - Ambulation/Locomotion $2.62
- Special Care Units
  - 1-30 beds basic plus $44.44
  - 31and above basic plus $48.68
- Transportation .57

# Status of Implementation of the Changes (SL 2012-142)

State Plan Amendment submitted to change PCS

- Makes eligibility, payment methodology and process the same across settings
- **July 20, 2012—**DHHS applied to CMS for a Medicaid State Plan Amendment (SPA) to implement the required legislative changes
  - Request for Additional Information (RAI) was received on August 13, 2012. Questions are about
    - Limitation of hours and process for determining scope and duration
    - Qualifications of providers, supervision of staff, use of nurse aide registry
    - Allowable locations of services and type of provider
    - Provider Choice

# Status of Implementation (cont)

- Proposed Medicaid Clinical Coverage Policy 3L, Personal Care Services (PCS), was posted on July 18, 2012 for 45-day public comment period (end date was Sept 1, 2012)
  - Proposed Policy 3L includes all provisions specified in SL 2012-142.
- Publication of Medicaid Special Bulletin (July 12, 2012 and subsequent monthly bulletin articles
- Conducted 5 regional trainings in August and additional webinars are scheduled
- Established PCS consolidation webpage
  - www.ncdhhs.gov/dma/pcs/pas.html

# Status of Implementation *cont'd*

## Independent Assessment Vendor:

- **July 1, 2012—**DMA extended Independent Assessment (IA) contract with The Carolinas Center for Medical Excellence (CCME) through June 30, 2013
  - CCME has been conducting the IA for the in-home program
  - This amendment allowed for the immediate implementation of IA for recipients in facilities, leveraging existing cost and resources in place for the in-home program
- A Request for Proposal (RFP) was posted August 22, 2012 for an IA vendor who will conduct both the in-home and facility PCS
  - Closing September 25, 2012
  - Effective date of new contract:
    - January 1, 2013 for a planned transition period with current vendor

# Status of Implementation *cont'd*

Independent Assessments:

- IAs of In-Home Care (IHC) recipients are up to date.
  - Ongoing IHC assessments will determine eligibility for transition to PCS effective January 1, 2013
- IAs in Adult Care Homes and other facilities began July 23, 2012
  - IA schedule is posted on website
  - Through August 25th, 5937 IAs were completed
    - Approximately 21,000 will need to be completed
  - Target date for completion remains November 30, 2012 (required in CMS approved Corrective Action Plan

# Status of Implementation *cont'd*

Projected impact of new PCS eligibility criteria:

- No change in eligibility for in-home recipients
- Raises entrance criteria for licensed adult care homes, family care homes and group homes for recipients

  (does not include PCS under the CAP waivers)
  - Recipient has a medical condition, disability, or cognitive impairment and demonstrates unmet needs, at a minimum:
    - (i) Three of the five qualifying ADLs with limited assistance;
    - (ii) Two ADLs, one of which requires extensive assistance;
    - (iii) Two ADLs, one of which requires assistance at the full dependence level.
  - Number with primary mental health diagnosis is not known since the IMD determinations have not been completed

# Status of Implementation

DHHS projected impact based upon results of survey with a sample of licensed facilities (12/1/2011)

| Setting | Qualifying Recipients | Non-qualifying |
|---|---|---|
| SCU | 1,843 (73%) | 685 (27%) |
| ACH/FCH | 5,571 (36%) | 9,903 (64%) |
| Group Homes [*5600c (IDD)] | 166 (14%) | 1,059 (86%) |
| Group Homes [5600a (MI)] | Near 0 (0%) | Near 994 (100%) |
| Total | 7,580 (37%) | 12,641 (63%) |

# Status of Implementation

- Projected indirect impact on In-Home Care recipients

| Setting | Qualifying Recipients | Non-qualifying* |
|---|---|---|
| In-Home Care | 21,941 (88%) | 2,893 (12%) |
| | | |

*Includes current IHC recipients who do not meet current program eligibility criteria and are authorized through maintenance of service, settlements, or Pashby class activity

# Results of Assessments (8/30/12)

| SETTING | Assessments Completed | PCS Qualifying | | PCS Non-Qualifying | |
|---|---|---|---|---|---|
| | | Count | Percent | Count | Percent |
| ACH Bed in NF* | 298 | 144 | 48% | 154 | 52% |
| Adult Care Home* | 2326 | 1240 | 53% | 1086 | 47% |
| Family Care Home* | 246 | 84 | 34% | 162 | 66% |
| SLF 5600a | 88 | 16 | 18% | 72 | 82% |
| SLF 5600c | 218 | 65 | 30% | 153 | 70% |
| Special Care* | 715 | 566 | 79% | 149 | 21% |
| Totals | 3891 | 2115 | 54% | 1776 | 46% |

***Note.*** Results reflect approximately 66 percent of assessments completed to date; medical attestation forms have not yet been submitted for the additional 34 percent of completed assessments.

* These facilities may access $39.7m one time funding during January – June 2013, as authorized under Section 10.23A in SL 2012-142, HB 950

# PCS Budget

| | SFY 2010 (actual) | SFY 2011 (actual) | SFY 2012 (actual) | SFY 2012 (certified) |
|---|---|---|---|---|
| **ACH Transportation** | $4,347,712 | $4,237193 | $4,296,675 | $4,306815 |
| **ACH Basic** | $136,988,117 | $133,813,431 | $135,901,230 | $130,556,542 |
| **ACH Enhanced** | $35,389,420 | $45,459,464 | $50,498,090 | $47,690,224 |
| **ACH Total** | $176,725,249 | $183,510,188 | $190,595,995 | $182,553,580 |
| | | | | |
| **PCS In-Home** | $342,538,687 | $257,418,914 IA and eligibility changes implemented | $229,864,278 | $211,641,888 |

# Institution of Mental Disease Update

# What is an IMD?

- IMDs are defined as “a hospital, nursing facility or other institution of **more than 16 beds** that is primarily engaged in providing diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services” (42 CFR 435.1009)
- An institution is considered an IMD if its overall character is that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such
- An institution for the mentally retarded is not an IMD. However, facilities **for the treatment of substance abuse are considered IMDs**
- More than 50% of all the patients in the facility will have a current need for institutionalization resulting from mental diseases. In applying the 50% guideline, *North Carolina needs to determine if the primary diagnosis of mental health is the reason for living in the residential setting*

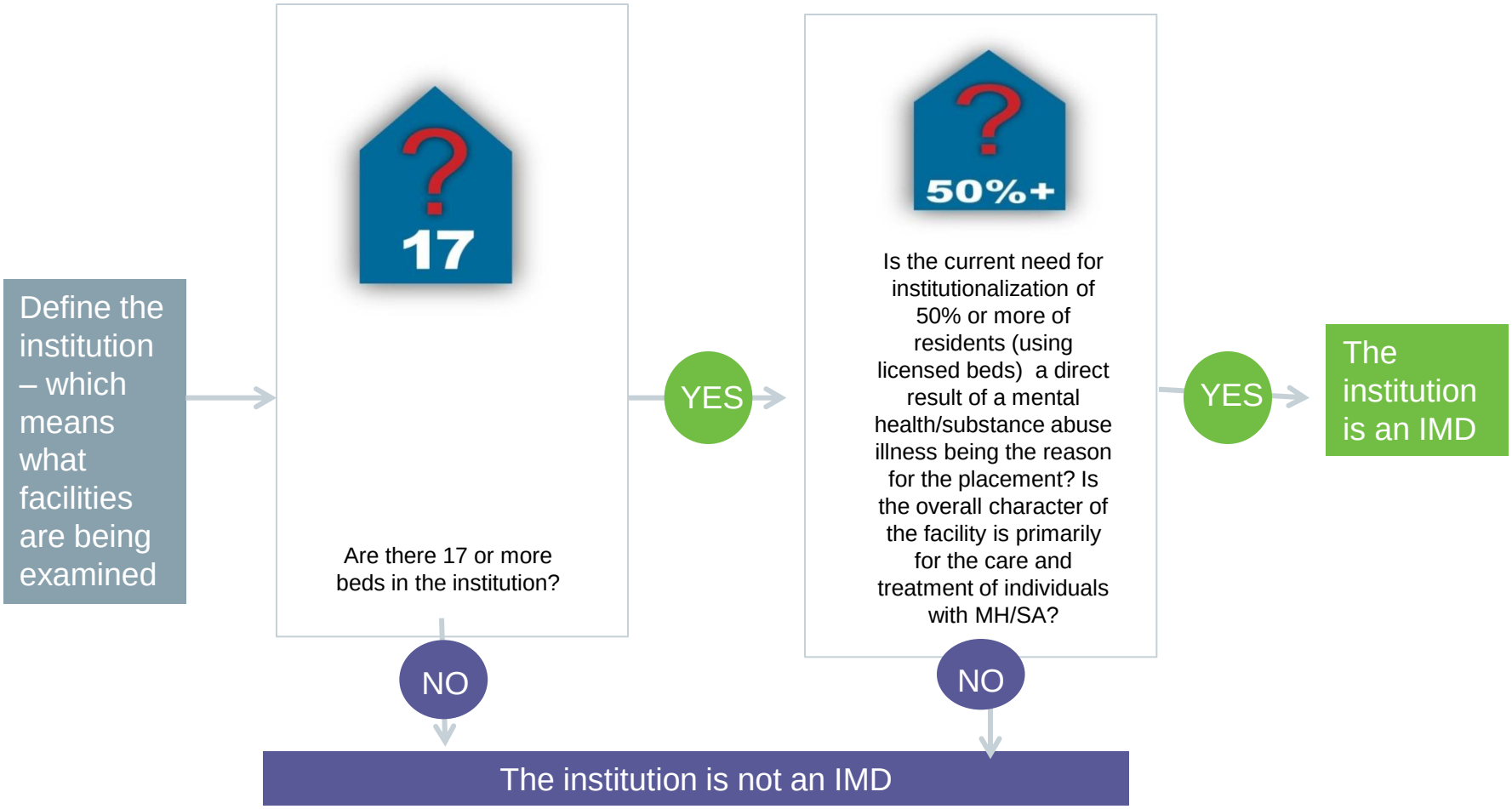
# IMD Exclusion

- The IMD exclusion applies only to institutions (facilities) with at least 17 beds or are deemed to have more than 17 beds due to shared ownership.
  - There are criteria used to determine shared ownership

- Medicaid match is **not available** for any services provided to beneficiaries who are residing in an IMD (1905(a) of the Social Security Act) except in limited conditions which the facilities being reviewed do not qualify
  - Beneficiaries under age 21 and over 65 in nursing homes or impatient psychiatric hospitals.

# Residential Facilities
## Phase II IMD Process

### Determining if a Residential Facility is an IMD



# Phase I Activities 2011

September - December 2011

- 25 homes were identified
  - Letters sent to providers notifying them of the screening
  - DMH/DD/SAS and DMA conducted training on IMD processes and expectations with LME and CABHA
  - Clinical Assessments for individuals were initiated

# Phase I Activities 2012

January – March 2012

- All data uploaded into database
  - Included clinical assessments, medical records, and facility assessments
- DMA review panel convened
  - Clinical (medical and behavioral health) and administrative staff (DMA and DMH/DD/SAS)
  - Review data weekly
  - Decide any At Risk and IMD determinations
  - At Risk Providers are identified

# Phase I Activities 2012 *cont'd*

## April - June 2012

- 16 of 25 original homes required additional information on possible shared ownership
  - Initiated phone interviews with owners to determine shared ownership
  - Letter sent to owners addressing shared ownership
  - Additional homes identified as a result of possible shared ownership
  - Additional At Risk letters send to providers
  - On site reviews initiated May 29-30
  - 1 Facility designated IMD on June 7
  - Transition teams sent to IMD facility for discharges
- DMH/DD/SAS completed housing analysis
- Temporary Restraining Order (TRO) filed June 15th- (Tiffany v. DHHS/DMA)
- Home identified as an IMD facility on June 7th was reinstated June 25th
- IMD Provider training was scheduled for June 27th; industry requested a rescheduling for July.

# Phase I Activities 2012 *cont'd*

## July - August 2012

- 12 homes were deemed IMD on July 5th but decisions were rescinded due to the Temporary Restraining Order
- Letters were sent to providers with effective date of July 9th
- Recipient letters were held
- IMD Provider training conducted July 11th primarily for 131D licensed facilities
- Additional IMD provider training was conducted July 19th for 122C licensed facilities
- DMA received modified instructions from CMS on occupied beds. We are continuing to work with CMS on revised methodology and will issue final guidance to the providers and will revisit previous IMD decisions once we have agreement with CMS
- The revised methodology affects the timelines for Phase II completion - thus modifying the plan of correction

# Phase I Results & Impact To Date

- Of the original 25 facilities previously identified to be “At Risk” in Phase I, 13 facilities received letters indicating they are found to be an IMD
  - The TRO stopped 12 of the facilities from final notice
  - No new notices have been distributed for the 12 facilities
- Total occupancy in 13 facilities = 533
- Total residents identified with primary diagnosis of mental illness/substance abuse = 283
  (excludes IDD, TBI, Dementia, Alzheimer, Organic Brain Syndrome)

# Phase II Activities and Data

- Completed a current data run of existing ACH, MH Group Homes, Family Care Homes by site and tax ID to determine any additional homes
- DMA received modified instructions from CMS that occupied beds MUST be used to make the final IMD determination. We are continuing to work with CMS on revised methodology and will issue final decision once we have agreement with CMS
- Methodology elements include
  - Residential settings licensed as an 122C or 131D facility billing PCS services
  - 6 months review of paid claims by any provider who billed Medicaid using a MH/SA diagnosis for the person living in a facility above
  - Identify 1 month within the above data period to identify unduplicated beneficiary count living in the facility
  - Provider EIN (tax ID number) used to determined possible shared ownership

# Phase II Data

**Screening of Facilities**

- Residential Settings licensed as 131D or 122C billing PCS services with more than 16 beds (individual license and federal tax id)
- Any recipient with at least one claim in 6 month period with MH/SA diagnosis by any provider
- Identify one month within date range of unduplicated recipient count
- Calculate the > 50% by:
  - Numerator: Primary MH/SA diagnosis
  - Denominator: One month of unduplicated claims (*)
  - Licensed beds per NC Division of Health Service Regulation to determine >16 beds as single or a shared ownership
- Conduct phone interviews to verify scope of shared ownership

**Conduct onsite review** of those providers that were “screened in” for over 16 beds and 50% occupancy

**Final IMD At Risk/ Determinations**

Numerator: # of Primary reason (medical or MH/SA) for living in residential setting

Denominator: Occupied beds (headcount on date of visit)

(*) pending negotiations with CMS

# Phase II - Projection of Facilities to be Reviewed for IMD

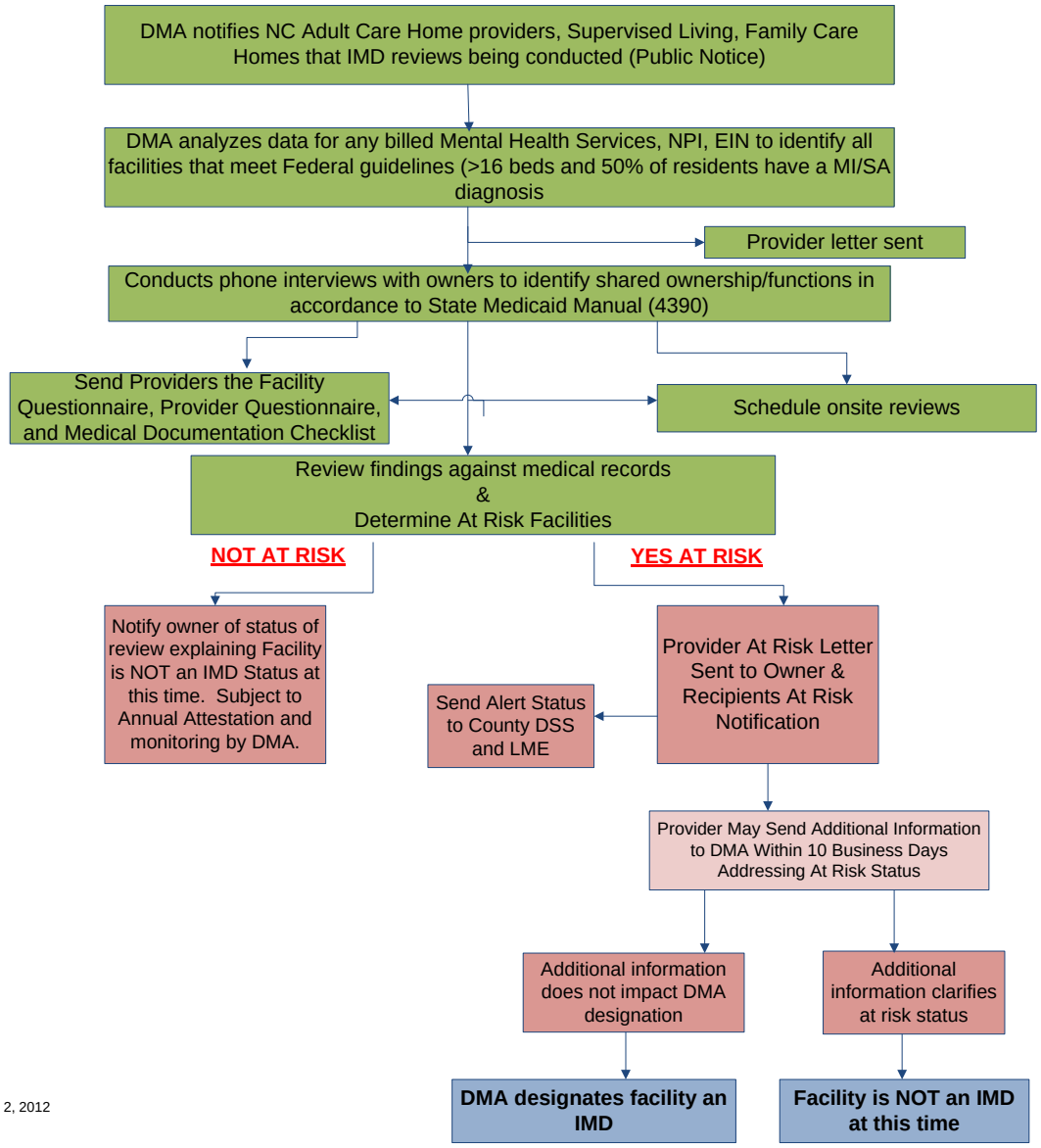
- Once CMS approves the methodology submitted by DMA for occupied beds, DMA will run final data for Phase II
  - Very preliminary number is 135;

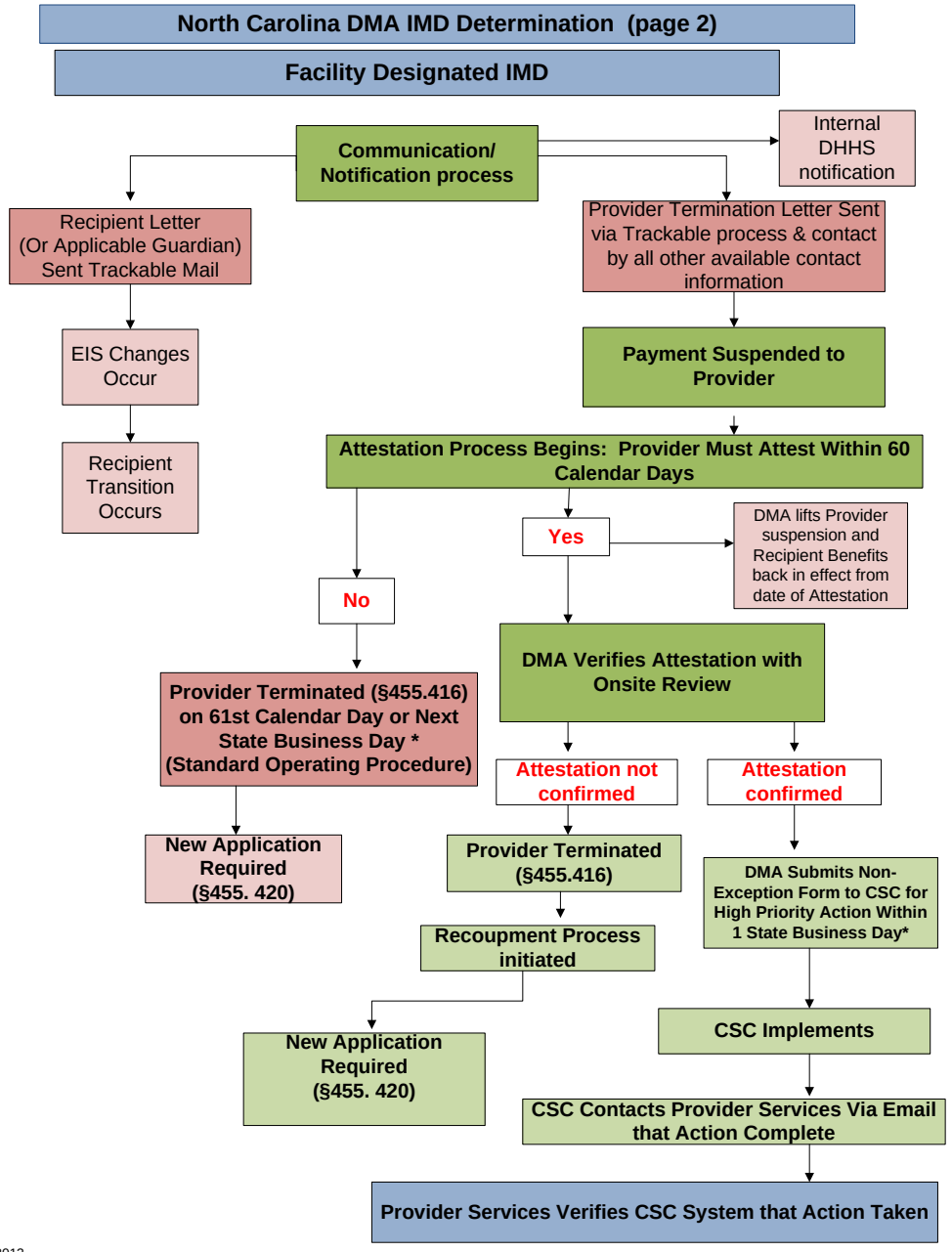
    this number is  expected to change as the data analysis is fine tuned
- Final instructions will be distributed to providers

# Phase II IMD Discharge Process

- DMA designates At Risk and IMD determinations
- DHSR insures compliance by Facility to discharge according to rules
- DMH/DD/SAS coordinates discharges for individuals with MH/SA
- DSS coordinates for all other recipients
- DHHS has emphasized the importance of local agencies and communities being proactive in planning and activation of resources to assist with relocation of recipients
- LME and DSS sent notification of facility status and list of recipients via secured email
  - Disability Rights of NC will also receive notice of the provider IMD determination
- Recipients' legally responsible persons and guardians should be actively involved in the transition/discharge process to insure choice for housing options in community and to address continuity of care and health/safety of the recipient
- Complaints may be routed to Regional Ombudsman or through DHSR Complaint Intake Unit.

# North Carolina DMA IMD Determination








*Unless Business Continiuity Is Interrupted

# Communication to Impacted Parties

- Training conducted
  - July 11th with >350 participants
  - July 19th with >250 participants
- Presentations at conferences and meetings (available on website at http://www.ncdhhs.gov/dma/)
- Recipients/guardians receive notification letters at the time of provider designation of At Risk status and final IMD determination.
- FAQ on the DMA website